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In the Supreme Court of the United States

OCTOBER TERM, 1929

DEMETRIUS PHILIPPIDES, PETITIONER

v.

BENJAMIN M. DAY, COMMISSIONER OF IMMIGRATION, PORT OF NEW YORK

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT

MEMORANDUM FOR THE RESPONDENT

In the Supreme Court of the United States

OCTOBER TERM, 1929

No. 847

DEMETRIUS PHILIPPIDES, PETITIONER

v.

BENJAMIN M. DAY, COMMISSIONER OF IMMIGRATION, Port of New York

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT

MEMORANDUM FOR THE RESPONDENT

The question involved is whether an alien who arrived in this country after the effective date of the Immigration Act of 1924 as a seaman and deserted his ship, and who remained here for a longer period than permitted by that Act and the regulations of the Department of Labor thereunder, may be deported at any time as provided in said Act, or only within three years after entry in accordance with the Immigration Act of 1917. The Circuit Court of Appeals for the Second Circuit in the instant case and in the case of *Piccolella* v. *Commissioner of Immigration,* 36 F. (2d) 1022 (certiorari denied March 3, 1930; No. 562), and

the Circuit Court of Appeals for the Sixth Circuit in the case of *Zurbrick, District Director of Immigration* v. *Traicoff*, decided March 14, 1930 (~~not yet reported~~); held that the three-year period of limitation prescribed by the Act of 1917 is not applicable in such cases. But the Circuit Court of Appeals for the Ninth Circuit in the case of *Carr, Director of Immigration* v. *Zaja*, 37 F. (2d) 1016 (decided February 17, 1930), held to the contrary. Because of this conflict of decisions, a petition for certiorari was filed on May 16, 1930 (No. 906), in behalf of the Director of Immigration in the *Zaja case*. The respondent herein consequently does not oppose the issuance of the writ in the instant case.

A copy of the petition for certiorari in the *Zaja case* accompanies this memorandum.

Respectfully submitted.

THOMAS D. THACHER,
Solicitor General.
O. R. LUHRING,
Assistant Attorney General.
CLAUDE R. BRANCH,
Special Assistant to the Attorney General.
HARRY S. RIDGELY,
W. MARVIN SMITH,
Attorneys.

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